IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

CRL.A.No. 286 of 2001()

CC.1432/1999 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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APPELLANT: COMPLAINANT

M/S.P.C.H.MARKETING, 40/959, P.T.USHA ROAD
KOCHI REPRESENTED BY P.D.THOMAS, POWER OF ATTORNEY HOLDER
OF KANWALJITH SING, PROPRIETOR OF M/S.P.C.H.MARKETING.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: ACCUSED & STATE

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1. MR.TANHER, PROPRIETOR, M/S.TIP TOP MAREENAS
   SULTHAN BATHERY, WYNAD DISTRICT.

2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.286 of 2001

Dated this the 18th day of October, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 19.11.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl